

**TESTIMONY OF RICK EICHSTAEDT
ON BEHALF OF THE SIERRA CLUB
REGARDING THE SPOKANE RIVER DRAFT NPDES PERMITS
OCTOBER 10, 2007**

- Thanks for the opportunity to comment on the four NPDES permits.
- My name is Rick Eichstaedt. My address is 35 West Main in Spokane. I am here tonight to testify on behalf of the Center for Justice.
- A majority of our comments will be submitted in writing, but I would like to address three issues.
- First, the permits do not provide limitation for PCBs. As Ecology knows, these permits are not strictly dissolved oxygen permits and accordingly Ecology must address all pollutants of concerns.
- In 2006, the Ecology issued a draft water quality report indicating that all four of these dischargers are sources of PCBs into the River.
- Unfortunately, the permits do not require the polluters to address PCBs other than a requirement to take one sample a month.
- These four dischargers will spend millions of dollars to upgrade their facilities. They need to consider whether the new technology will also abate PCBs.
- Second, the permits allow for new increases in pollution discharges.
- The Draft Permits allow Liberty Lake to double its discharge and Spokane to increase its discharge by 15 million gallons a day without any decreases in pollution loads. This will allow for increases in oxygen-depleting pollutants – BOD, ammonia and phosphorus – rather than the decreases necessary to clean up the River.
- The Clean Water Act allows new and increased discharges only if these will not “cause or contribute” to the problem. Last week, the Ninth Circuit Court of Appeals made it clear that new discharges, such as these, are allowed only if a TMDL can demonstrate that there are “sufficient remaining load allocations” for the new discharge. The TMDL shows that the river is over allocated, not that there is remaining capacity.
- Obviously, any new increase in pollution will only make the problem worse for the River. Moreover, these increases are inconsistent with the TMDL and the foundational concepts document that allows increases in 2017 and 2027, when pollution reduction activities have been implemented.

- Lastly, the City of Spokane permit does not reflect current requirements for sewer overflows.
- In September 2006, Ecology issued an order requiring the City to improve its management of these overflows and to increase its public outreach and education requirements.
- The draft permit does not include these requirements.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

4601 N Monroe Street • Spokane, Washington 99205-1295 • (509) 329-3400

September 11, 2006

CERTIFIED MAIL (7003 1680 0007 1553 1847)

Mr Dale Arnold
Director, Wastewater Management Department
City of Spokane
909 E. Sprague
Spokane, WA 99202

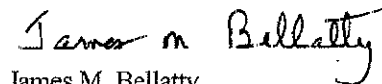
Dear Mr Arnold:

RE: City of Spokane Wastewater Management System and NPDES Permit No WA-0024473

Enclosed is Order No 3821 requiring you to submit a draft update to the Spokane Combined Sewer Overflow Manual to the Department of Ecology and participate in development and implementation on outreach and public notification plan for Combined Sewer Overflow discharges and other the wastewater/stormwater collection system concerns.

All correspondence relating to this document should be directed to Richard Koch at the Department of Ecology, Eastern Regional Office, 4601 N Monroe Street, Spokane, WA 99205-1295 Please call Richard at (509) 329-3519 if you have any questions concerning the content of the document

Sincerely,


James M Bellatty
Water Quality Section Manager
Eastern Regional Office

JMB:MH:slt
Enclosures

cc: Michael Hepp, Ecology/ERO
Richard Koch, Ecology/ERO
Public Information Officer, Ecology/ERO
Len Bramble, Ecology/ERO



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF AN) ORDER No. 3821
ADMINISTRATIVE ORDER)
AGAINST:)
City of Spokane)

To: Mr Dale Arnold
Director, Wastewater Management Department
City of Spokane
909 E Sprague
Spokane, WA 99202

For the site located at City of Spokane Wastewater Management System, Spokane, WA

This is an Administrative Order requiring the City of Spokane to comply with RCW 90.48 by taking certain actions which are described below. RCW 90.48.120(2) authorizes the Department of Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated any provision of RCW 90.48.

The Department's determination that a violation of RCW 90 48 has occurred is based on the following facts:

Violation 1: The City of Spokane discharged untreated wastewater during dry weather from Combine Sewer Overflow No. 6 outfall on July 8, 2006 through to the afternoon of July 11, 2006 in violation of National Pollutant Discharge Elimination System (NPDES) permit No. WA-24473 permit condition S13 A and RCW 90.48.080.

Corrective Action 1: For these reasons and in accordance with RCW 90 48 120(2) it is ordered that the City of Spokane take the following actions

- 1 Submit a draft update to the Spokane Combined Sewer Overflow Manual to the Department of Ecology by October 1, 2006 This update shall include, but is not limited to the following:
 - a An evaluation of compliance with the Environment Protection Agency (EPA) CSO control policies and guidelines.
 - b A schedule for re-evaluation and reconciliation of GIS data and record drawings with the goal of finding diversion points or other structures that could result in unmonitored discharges from CSOs
 - c A schedule for visual confirmation (such as videoing) all CSO lines between the diversion weir and outfall to finding diversion points or other structures that could result in unmonitored discharges from CSOs
 - d A schedule for elimination or repair of any diversions or similar structures that could result in unmonitored discharges from CSOs (goal is that work is completed by May 1, 2007)
 - e Plan for scope and frequency for visual inspections CSO outfalls during the summer river high use season (May 15 through October 1) starting in 2007

The inspection shall include verification that the outfall has stopped flowing, repair of signage and outfalls as needed and pickup of sewage debris (Goal is at least once per month for higher frequency dischargers and within one week of any discharge)

- f Blockage cause awareness and prevention program for contractors and city maintenance staff
- 2 Participate in development and implementation of an outreach and public notification plan for CSO discharges and related wastewater/stormwater collection system concerns This plan shall include coordination with Ecology, the local health district, river user groups and the media in development of content, scope, message to the public and responsibilities for implementing the plan. Progress reports on this effort shall be submitted to the Department of Ecology by December 1, 2006 and April 1, 2007. This plan shall include the following at a minimum:
- a An evaluation as to the visibility and adequacy of signage at outfalls, river access and high use points
 - b A needs evaluation and plan concerning how and when enhanced public notification occurs.
 - c A responsibility plan for river water quality monitoring and reporting on a regular and discharge event basis
 - d Public awareness and education campaign concerning CSO discharges and the wastewater / stormwater collection and treatment system This plan shall include the sources and significance of bacteria and other pollutants in the river and the things citizens can do to protect the city's wastewater collection system

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

You have the right to appeal this order to the Pollution Control Hearings Board Pursuant to chapter 43 21B RCW, your appeal must be filed with the Pollution Control Hearings Board, and served on the Department of Ecology, within thirty (30) days of the date of your receipt of this document

To appeal this action or decision, your notice of appeal must contain a copy of the Ecology order, action or decision you are appealing.

Your appeal must be filed with:

The Pollution Control Hearings Board
4224 - 6th Avenue SE, Rowe Six, Bldg. 2
P.O. Box 40903
Lacey, Washington 98504-0903

Your appeal must also be served on:

The Department of Ecology
Appeals Coordinator
P.O. Box 47608
Olympia, Washington 98504-7608

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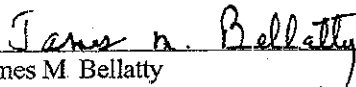
In addition, please send a copy of your appeal to:

Michael Hepp
Department of Ecology
Eastern Regional Office
4601 N. Monroe Street
Spokane, WA 99205-1295

For additional information Environmental Hearings Office Website <http://www.eho.wa.gov>

Your appeal alone will not stay the effectiveness of this Order. Stay requests must be submitted in accordance with RCW 43 21B 320. These procedures are consistent with Ch 43 21B RCW

DATED this 11th day of September 2006 at Spokane, Washington.


James M Bellatty
Water Quality Section Manager
Eastern Regional Office